OIPE JC901
MAR 20 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

RECEIPT. #2

PATENT
ATTORNEY DOCKET NO. 09166/002002
PATENT APPLICATION NO. 10/032,604

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	James G. CLOUGH et al.	Art Unit:	3725
Serial No.:	10/032,604	Examiner:	
Filed:	October 19, 2001		
Title:	ORTHOPEDIC SHOE APPLIANCE AND METHOD		

Assistant Commissioner for Patents
Washington, DC 20231

REQUEST TO CORRECT FILING RECEIPT

Applicant requests that the total number of the independent claims in the application be corrected from "2" to --3--.

Enclosed is a copy of the filing receipt as received from the PTO. The total number of the independent claims is in error. The correct number of claims should be "3", as evidenced by the enclosed copy of the originally filed claims, transmittal letter, and check. The transmittal letter and check show that the Applicant filed and paid for 3 independent claims.

Because this is a PTO error, no petition is believed necessary. However, if a petition is deemed to be required, please consider this paper as such and charge the appropriate fees to Deposit Account 50-0591, reference No. 09166.002002.

Respectfully submitted,

Date: 3/12/02

Signature: #45,079
Jonathan P. Osha
Reg. No. 33,986

ROSENTHAL & OSHA L.L.P.
One Houston Center, Suite 2800
1221 McKinney Avenue
Houston, TX 77010

Telephone: 713/228-8600
Facsimile: 713/228-8778

26699_1

COPY OF PAPERS
ORIGINALLY FILED

OIPE
MAR 20 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/032,604	10/19/2001	3726	685	09166.002002	19	55	2

RECEIVED
FEB 19 2002

CONFIRMATION NO. 8156

FILING RECEIPT

OC000000007408297

Rosenthal & Osha L.L.P.
Suite 4550
700 Louisiana
Houston, TX 77002

ROSENTHAL & OSHA L.L.P.

Date Mailed: 02/04/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James G. Clough, Great Falls, MT;
Ronald G. Ray, Great Falls, MT;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CIP OF 09/693,235 10/20/2000
WHICH IS A CIP OF 09/467,973 12/21/1999 PAT 6,170,176

Foreign Applications

If Required, Foreign Filing License Granted 02/01/2002

Projected Publication Date: 05/16/2002

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

No Docketing Required
Date: 2.19.2002
Initials:

Title

Orthopedic shoe appliance and method

Preliminary Class

036

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

COPY OF PAPERS
ORIGINALLY FILED

OIPE
MAR 20 2002
PATENT & TRADEMARK OFFICE

Claims

What is claimed is:

[c1] An orthopedic appliance, comprising a wedge for placement beneath a toe, having a first upper surface disposed between a first end and an apex, a second upper surface, disposed between the apex and a second end, the first upper surface being separated from a lower planar surface by an angle of inclination between 1 and 60 degrees.

[c2] The orthopedic appliance of claim 1, wherein the angle of inclination is between 1 and 20 degrees.

[c3] The orthopedic appliance of claim 1, wherein the wedge is formed integrally as a part of a piece of footwear.

[c4] The orthopedic appliance of claim 1, wherein the wedge comprises an elastomeric material.

[c5] The orthopedic appliance of claim 1, wherein the wedge comprises a material selected from the group consisting of cork, leather, resilient foam, and thermoplastic material.

[c6] The orthopedic appliance of claim 1, wherein a concave depression is formed in the first and second upper surfaces.

[c7] The orthopedic appliance of claim 1, further comprising at least one fastener.

[c8] The orthopedic appliance of claim 7, wherein at least one fastener comprises a plurality of bands disposed adjacent the first and second upper surfaces.

[c9] The orthopedic appliance of claim 7, wherein the at least one fastener comprises a sheath disposed adjacent the first and second upper surfaces.

[c10] The orthopedic appliance of claim 1, wherein a valgus angled grade, between 1 and 45 degrees, is formed in the second upper surface.

[c11] The orthopedic appliance of claim 10, wherein a valgus angled grade, between 1 and 45 degrees, is formed in the first upper surface.

[c12] The orthopedic appliance of claim 11, wherein a concave depression is formed in the first and second upper surfaces.

[c13] The orthopedic appliance of claim 1, wherein a varus angled grade, between 1 and 45 degrees, is formed in the second upper surface.

[c14] The orthopedic appliance of claim 13, wherein a varus angled grade, between 1 and 45 degrees, is formed in the first upper surface.

[c15] The orthopedic appliance of claim 14, wherein a concave depression is formed in the first and second upper surfaces.

[c16] The orthopedic appliance of claim 1, further comprising a convex contour along a medial edge.

[c17] The orthopedic appliance of claim 16, further comprising a concave contour along a lateral edge.

[c18] The orthopedic appliance of claim 16, further comprising a convex contour along a lateral edge.

[c19] The orthopedic appliance of claim 16, further comprising a serpentine contour along a lateral edge.

[c20] The orthopedic appliance of claim 1, further comprising an angled grade disposed along a lateral edge.

[c21] An apparatus for orthopedic treatment, comprising:

a first upper surface adapted to support a proximal phalanx;

a second upper surface adapted to support a distal phalanx;

a bottom surface; and

a support which maintains the proximal phalanx at an angle of inclination between the first upper surface and the bottom surface.

[c22] The apparatus of claim 21, wherein the angle of inclination is between 1 and 60 degrees.

[c23] The apparatus of claim 21, wherein the angle of inclination is between 1 and 20 degrees.

[c24] The apparatus of claim 21, wherein the support is formed integrally as part of a piece of footwear.

[c25] The apparatus of claim 21, wherein a concave depression is formed in the first and second upper surfaces.

[c26] The apparatus of claim 21, further comprising at least one fastener.

[c27] The apparatus of claim 26, wherein the at least one fastener comprises a plurality of bands disposed adjacent the first and second upper surfaces.

[c28] The apparatus of claim 26, wherein the at least one fastener comprises a sheath disposed adjacent the first and second upper surfaces.

[c29] The apparatus of claim 21, wherein a valgus angled grade between 1 and 45 degrees is formed in the second upper surface.

[c30] The apparatus of claim 29, wherein a valgus angled grade between 1 and 45 degrees is formed in the first upper surface.

[c31] The apparatus of claim 30, wherein a concave depression is formed in the first and second upper surfaces.

[c32] The apparatus of claim 21, wherein a varus angled grade between 1 and 45 degrees is formed in the second upper surface.

[c33] The apparatus of claim 32, wherein another varus angled grade between 1 and 45 degrees is formed in the first upper surface.

[c34] The apparatus of claim 33, wherein a concave depression is formed in the first and second upper surfaces.

[c35] The apparatus of claim 21, wherein a convex contour is formed along a medial edge.

[c36] The apparatus of claim 35, wherein a concave contour is formed along a lateral edge.

[c37] The apparatus of claim 35, wherein a convex contour is formed along a lateral edge.

[c38] The apparatus of claim 35, wherein a serpentine contour is formed along a lateral edge.

[c39] The apparatus of claim 21, wherein an angled grade is formed along a lateral edge.

[c40] A method for improving stability of a foot during ambulation, comprising:

providing a wedge having a first upper surface, a second upper surface, and a bottom surface; and

elevating a proximal phalanx to a predetermined angle of inclination using the wedge.

[c41] The method of claim 40, wherein the angle of inclination is between approximately 1 and 60 degrees.

[c42] The method of claim 40, wherein the angle of inclination is between approximately 1 and 20 degrees.

[c43] The method of claim 40, further comprising fixing the bottom surface of the wedge to a piece of footwear.

[c44] The method of claim 40, further comprising fixing the wedge to the toe.

[c45] The method of Claim 40, further comprising fixing the wedge to the toe using a plurality of bands.

[c46] The method of claim 40, further comprising fixing the wedge to the toe using a sheath.

[c47] The method of claim 40, further comprising declining a distal phalanx to a predetermined angle of declination along the second upper surface.

[c48] The method of claim 40, further comprising angling the second upper surface in a valgus orientation.

[c49] The method of claim 48, further comprising angling the first upper surface in a valgus orientation.

[c50] The method of claim 49, further comprising forming a concave depression in the first and second upper surfaces.

[c51] The method of claim 49, further comprising fixing the valgus orientation of the upper surfaces between 1 and 45 degrees.

[c52] The method of claim 40, further comprising angling the second upper surface in a varus orientation.

[c53] The method of claim 52, further comprising angling the first upper surface in a varus orientation.

[c54] The method of claim 53, further comprising forming a concave depression in the first and second upper surfaces.

[c55] The method of claim 53, further comprising fixing the varus orientation of the upper surfaces between 1 and 45 degrees.

COPY OF PAPERS
ORIGINALLY FILED

Express Mail Label No. EV014255[illegible] US

UTILITY PATENT APPLICATION TRANSMITTAL
(Small Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
09166.002002

Total Pages in this Submission

OIPE
MAR 20 2002
PATENT & TRADEMARK OFFICE

TO THE ASSISTANT COMMISSIONER FOR PATENTS
Box Patent Application
Washington, D.C. 20231

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

ORTHOPEDIC SHOE APPLIANCE AND METHOD

and invented by:

James G. CLOUGH and Ronald G. RAY

If a CONTINUATION APPLICATION, *check appropriate box and supply the requisite information:*

☐ **Continuation** ☐ **Divisional** ☒ **Continuation-in-part (CIP)** of prior application No.: **09/693,235**

Which is a:

☐ **Continuation** ☐ **Divisional** ☒ **Continuation-in-part (CIP)** of prior application No.: **09/467,973**

Which is a:

☐ **Continuation** ☐ **Divisional** ☐ **Continuation-in-part (CIP)** of prior application No.: _____

Enclosed are:

Application Elements

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having **30** pages and including the following:
 - a. ☒ Descriptive Title of the Invention
 - b. ☒ Cross References to Related Applications *(if applicable)*
 - c. ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
 - d. ☐ Reference to Microfiche Appendix *(if applicable)*
 - e. ☒ Background of the Invention
 - f. ☒ Brief Summary of the Invention
 - g. ☒ Brief Description of the Drawings *(if drawings filed)*
 - h. ☒ Detailed Description
 - i. ☒ Claim(s) as Classified Below
 - j. ☒ Abstract of the Disclosure

22511
PATENT TRADEMARK OFFICE

UTILITY PATENT APPLICATION TRANSMITTAL
(Small Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No. 09166.002002
Total Pages in this Submission

Application Elements (Continued)

3. ☒ Drawing(s) *(when necessary as prescribed by 35 USC 113)*

 a. ☒ Formal b. ☐ Informal Number of Sheets 19

4. ☒ Oath or Declaration

 a. ☒ Newly executed *(original or copy)* ☐ Unexecuted

 b. ☐ Copy from a prior application (37 CFR 1.63(d)) *(for continuation/divisional application only)*

 c. ☒ With Power of Attorney ☐ Without Power of Attorney

 d. ☐ *DELETION OF INVENTOR(S)*
 Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. 1.63(d)(2) and 1.33(b).

5. ☐ Incorporation By Reference *(usable if Box 4b is checked)*
 The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Computer Program in Microfiche

7. ☐ Genetic Sequence Submission *(if applicable, all must be included)*

 a. ☐ Paper Copy

 b. ☐ Computer Readable Copy

 c. ☐ Statement Verifying Identical Paper and Computer Readable Copy

Accompanying Application Parts

8. ☐ Assignment Papers *(cover sheet & documents)*

9. ☐ 37 CFR 3.73(b) Statement *(when there is an assignee)*

10. ☐ English Translation Document *(if applicable)*

11. ☐ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations

12. ☐ Preliminary Amendment

13. ☒ Acknowledgment postcard

14. ☒ Certificate of Mailing

 ☐ First Class ☒ Express Mail *(Specify Label No.):* EV014255924US

UTILITY PATENT APPLICATION TRANSMITTAL
(Small Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No. 09166.002002
Total Pages in this Submission

Accompanying Application Parts (Continued)

15. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*

16. ☐ Small Entity Statement(s) - Specify Number of Statements Submitted: _____

17. ☐ Additional Enclosures *(please identify below):*

Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)

18. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

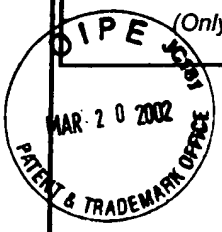
Warning

An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

UTILITY PATENT APPLICATION TRANSMITTAL
(Small Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
09166.002002
Total Pages in this Submission



Fee Calculation and Transmittal

CLAIMS AS FILED

For	#Filed	#Allowed	#Extra		Rate	Fee
Total Claims	55	- 20 =	35	x	$9.00	$315.00
Indep. Claims	3	- 3 =	0	x	$42.00	$0.00
Multiple Dependent Claims (check if applicable) ☐						$0.00
					BASIC FEE	$370.00
OTHER FEE *(specify purpose)* _____						$0.00
					TOTAL FILING FEE	$685.00

☒ A check in the amount of **$685.00** to cover the filing fee is enclosed.

☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. **50-0591** as described below. A duplicate copy of this sheet is enclosed.

- ☐ Charge the amount of _____ as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Dated: **October 19, 2001**

Signature

Jonathan P. Osha, Reg. No. 33,986
Rosenthal & Osha L.L.P.
700 Louisiana, Suite 4550
Houston, Texas 77002
Telephone: 713-228-8600
Facsimile: 713-228-8778

cc:

ROSENTHAL & OSHA L.L.P.
OPERATING ACCOUNT

6771

DATE	DESCRIPTION	INVOICE #	CHECK AMOUNT	DEDUCTION	NET AMOUNT
	COMMISSIONER FOR PATENTS AND TRADEMARKS				
10/19/01	Filing Fee	9166.002002	685.00		685.00



CHECK DATE	CONTROL NUMBER						
10/19/01	6771	TOTALS ▶	Gross:	685.00	Ded:	0.00	Net: 685.00

6771

ROSENTHAL & OSHA L.L.P.
OPERATING ACCOUNT
SUITE 4550 700 LOUISIANA
HOUSTON, TX 77002

COMPASS BANK-HOUSTON
SPRING MEMBER FDIC
HOUSTON, TEXAS 77210-4444
35-1054-1130

DATE	CHECK	AMOUNT
10/19/01	6771	****$685.00

PAY *** SIX HUNDRED EIGHTY-FIVE & 00/100 DOLLARS

TO THE ORDER OF: COMMISSIONER FOR PATENTS AND TRADEMARKS Acct: 50-0591

Details on back. Security Features Included.

08/15/2001

⑈006771⑈ ⑆113010547⑆ 38957813⑈

COPY OF PAPERS ORIGINALLY FILED

COPY OF PAPERS
ORIGINALLY FILED

OIPE
MAR 20 2002
PATENT & TRADEMARK OFFICE
TC 1617

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 09166.002002

In Re Application Of: **James G. CLOUGH et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/032,604	October 19, 2001		3725

Title: **ORTHOPEDIC SHOE APPLIANCE AND METHOD**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Transmitted herewith is:

Request To Correct Filing Receipt

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of is attached.
- ☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. **50-0591** as described below. A duplicate copy of this sheet is enclosed.
 - ☐ Charge the amount of
 - ☐ Credit any overpayment.
 - ☒ Charge any additional fee required.

#45,077
Signature

Dated: 3/12/02

Jonathan P. Osha, Reg. No. 33,986
Rosenthal & Osha L.L.P.
One Houston Center, Suite 2800
1221 McKinney Avenue
Houston, TX 77010
Telephone: 713-228-8600
Facsimile: 713-228-8778

I certify that this document and fee is being deposited on **March 12, 2002** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Yuki Tsukuda

Typed or Printed Name of Person Mailing Correspondence

cc:

Copyright 1995 Legalsoft